

Summary of remarks by
Commissioner Hulihan Williams Moore
Chairman, Virginia State Corporation Commission
before the
House Commerce Committee
Subcommittee on Energy and Power
Friday, April 18, 1997 Richmond, Virginia

INTRODUCTION

- The State Corporation Commission has jurisdiction over the rates and services of Virginia's electric utilities.

KEY POINTS

- Goal is reliable electric service at reasonable rates for all with the electricity produced in an environmentally responsible manner.
- Where competition or deregulation has been shown to help achieve reliable service and reasonable rates, Virginia has acted quickly.
- States electing retail competition now have high electric rates and need to take the risks. In Virginia, however, our rates are generally not high by comparison for most citizens and businesses.
- The Staff of the State Corporation Commission has been studying restructuring of the electric industry, including retail competition, for almost two years. The initial Staff Report raised many substantial issues about retail competition in Virginia. Until many of the issues raised by the Staff Report are addressed more fully it is unclear that retail competition would necessarily be beneficial for Virginia's residents and businesses.
- This Fall, Staff will present to the General Assembly a draft model for the future structure of the electric industry in Virginia. The Staff is considering retail competition and pilot programs as part of its recommendation.
- We should learn from examining the results of work in other states. Congress should learn also from what it has done. Examples include integrated resource planning included in the Energy Policy Act of 1992 and the mandates and short deadlines included in the 1996 Telecom Act.
- The electric industry is more complex than the telephone industry, more state and regional in nature, and without as many alternatives.

RECOMMENDATIONS

- Reduce the stridency of the debate by lowering the rhetoric and carefully finding answers to the tough questions that really impact customers.
- Allow states to proceed at their own pace. Federally mandated retail competition at this time is unnecessary and is bad public policy.
- Federal legislation could help state electric policy evolve and allow states to work together on regional issues, such as transmission and reliability.

**BEFORE THE
U. S. HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE
SUBCOMMITTEE ON ENERGY AND POWER**

**STATEMENT OF THE HONORABLE HULLIHEN WILLIAMS MOORE
CHAIRMAN, VIRGINIA STATE CORPORATION COMMISSION**

APRIL 18, 1997

My name is Hullihen Williams Moore and I am the current Chairman of the Virginia State Corporation Commission. Thank you for giving me the opportunity to be with you today.

I am appearing today on behalf of the Virginia State Corporation Commission, which is Virginia's agency with jurisdiction over the rates and services of Virginia's telephone, electric, natural gas and water utilities. I am also a member of the National Association of Regulatory Utility Commissioners' Committee on Electricity.

Electricity is vital to the social and economic well-being of all. We at both the state and federal levels have a responsibility to ensure that the interests of all citizens are fully protected as we consider changes to the electric industry.

Neither continued traditional regulation nor retail competition should be the goal in this discussion. Our goal is, and indeed must be, reliable electric service at reasonable

rates for all, with the electricity produced in an environmentally responsible manner. Market forces, including retail competition, may be a means to that end, but competition itself must not be the end itself.

When it was shown that competition or deregulation would help achieve the goal of reliable service and reasonable rates, Virginia acted quickly. For example, Virginia was once considered a laboratory for competitive bidding for generating capacity. And we were early to make retail gas competition a reality. Neither the Commonwealth nor the Commission is a stranger to competition or change. We embrace both.

The Staff of our Commission has been studying the restructuring of the electric industry, including retail competition, for almost two years. A special subcommittee of our General Assembly has also studied these issues for over a year.

Other states are doing the same. Some states, where electric rates are extraordinarily high, are taking risks with their attempts to develop retail competition and are acting without knowing the answers to many questions. That is understandable if rates are 15¢ per kWh. At those rates, there is little to lose, at least in terms of prices.

In general, however, Virginia's electric rates are not high by comparison for most citizens and businesses. Our average rate for all retail customers is about 1¢ per kWh less than the national average.¹ Our residential customers pay 1.15¢ per kWh less than the national average rate. The rates paid by most residential customers in Southwest Virginia are even lower. These customers, on average, are saving hundreds of dollars annually when compared to customers paying rates at or above the national average. Virginia's commercial rates rank twelfth lowest and rates for those businesses being served by Appalachian Power Company in Virginia are lower than every other state's average commercial rate, other than Idaho and Kentucky. As for industrials, the national average industrial rate is more than 20% higher than the average Virginia rate. Are we satisfied

with rates in Virginia? No. We must continue to examine ways to lower costs and rates in creative and innovative ways.

Our Staff, as part of an ongoing study, issued a major report last summer that raised many substantial issues about retail competition in Virginia including its potential impact on reliability, operational questions, and the price consumers would pay, particularly residential customers. We asked for an assessment free from preconceived notions and we were provided a review and analysis of advantages, disadvantages, concerns, recommendations and remaining questions. I would ask that this report be made part of your record and would hope that you and your staff review it.

Among the points raised by the Staff's report is that competition will produce winners and losers. While it is possible that there may be more winners than losers, the Staff is concerned that there will be major cost shifts among customer groups and across geographic regions. Given Virginia's relatively favorable rates, it is quite possible that Virginia has more to lose and less to gain. It is, in our view, disingenuous to suggest or assert that all customers will receive rates similar to those in the lowest cost states. It's possible that some low rates will rise, and that's why some states are voicing concern about restructuring the industry. We at the Commission are still assessing this issue.

There is also concern that the vast differences in the bargaining power and sophistication of customers may result in disparate impacts across customer classes. As a result, small customers may be hurt.

The Staff is also concerned that competitive pressures may cause reliability to deteriorate over the long run and the short run. Over the short run, competition is placing increased pressure on the electric grid, which was not designed to operate as a common carrier. This pressure and the functional separation of generation from transmission could

¹ The average rates referred to in this paragraph were published by the Edison Electric Institute and reflect weighted average rates for investor owned utilities for the twelve months ending June 30, 1996.

increase the probability of reliability problems, including transmission outages, by segregating previously coordinated management of power production and transmission.

Over the long run, the Staff is concerned that revenue volatility associated with a competitive market may make it difficult to finance and construct capital intensive generating units, especially base load facilities. Units most likely to be constructed will be natural gas combined cycle units and combustion turbines which will place increased reliance on a fuel source that has historically experienced volatile prices and supply constraints.

The Staff also reports that there are certain efficiencies associated with the vertical integration of transmission and generation because these facilities are sometimes substitutable and always interdependent. The functional and perhaps corporate separation of such facilities could result in the loss of these efficiencies and could undermine the benefits of competition. These factors must be considered along with market power concerns and the potential for market forces to protect against excessive prices.

There are several characteristics of the electric utility industry that cause the Staff to be concerned about potential market power abuses. Transmission and voltage constraints result in "must-run" units which, in a competitive environment, could significantly impact the price of electricity during certain hours, especially peak load periods. Additionally, electricity cannot effectively be stored; it must be generated instantaneously with usage. Further, environmental and financial considerations could pose significant barriers to market entry and could further stimulate increased merger/acquisition activities. Moreover, smaller customers currently do not have the information or the ability to respond to market prices. At a minimum, a significant investment in information and load management systems would be required in order for residential and small commercial customers to obtain the full benefit of market forces.

In addition to these concerns, the Staff also recognized potential benefits associated with a truly competitive market. Competition has been shown to provide efficiency and to keep pressure on costs and prices. Competition and the increased threat of competition were, at least in part, responsible for the recent cost cutting by electric utilities. We, therefore, want to examine fully the role competition can play in the electric industry.

Until many of the issues raised by our Staff report are addressed more fully, it is unclear that retail competition would necessarily be beneficial for all or most of Virginia's citizens. We continue to examine these issues with working groups that include our Staff and interested parties. Utilities, generators, marketers and large and small customers are participating.

This Fall our Staff will present to our General Assembly a draft model for the future structure of the electric industry in Virginia. The Staff is considering retail competition and pilot programs as part of its recommendation. This model will be more of a beginning point for the legislature's discussion rather than the final answer. In addition, the Commission is considering alternative regulatory plans and examining unbundled rates for generation, transmission and distribution in active dockets right now.

We will learn many answers through further study and analysis, but important information will also be received by examining the results of what the pioneer states are doing. California, Rhode Island, New Hampshire and Pennsylvania should proceed with their experiments and plans. All of us can learn from them.

Congress should also learn from what it has done. First look at the energy area. Four years ago, Virginia and all states were required by Congress to consider mandating integrated resource planning for investor-owned utilities. Central planning was "in." The states had until October of 1995 to conclude their IRP cases. Now, 18 months later, it is proposed to turn 180 degrees from central planning and require reliance on an unproven

market for all decisions. I suggest it is not wise to require either alternative. Let each state decide where on the continuum it should be and how fast it should move.

Second, remember the Telecom Act. Although the Act was debated for years, it was passed in haste and is filled with mandates and short deadlines. The result has included much confusion and difficulty. The Telecom Act promised much, including lower rates and increased investment in technology. Yet, earlier this year some twenty-five of your colleagues in the Senate were worried enough about the Act to write the FCC the following: "Not a single Senator or Member of Congress who supported this landmark legislation voted to increase rates or freeze investment." We hope your colleagues' fears are not well founded, but all must worry when Congress worries. And, we are now frequently hearing local phone rates will likely increase despite the best intentions of the Act. If the public is to be properly protected, we must proceed in a careful and thoughtful manner.

Having worked with both the electric and telecommunications industries, I can assure you electricity is much more complex than the telephone industry, more state and regional in nature, and without as many alternatives.

We must also remember that effective competition cannot be decreed -- economists in the energy field may have sophisticated and appealing theories about how deregulation would work out, but, the reality could be very different. Thus, even if it is determined that retail competition in the electric industry may be beneficial for a state or a region, that does not end the discussion. Deregulation is not enough. For the benefits to be achieved, the competition must be real and effective. Development of effective competition depends on many things such as the market power of the players, the adequacy of controls and the ability of the grid to transport power. There are many hurdles to real competition in this market and there is no assurance that retail competition will be effective.

I have three suggestions. First, reduce the stridency of the debate. Consider not just concepts, notions and theories, but take the time, as we in Virginia are trying to do, to study the facts. There are quieter voices raising real concerns. Let's lower the rhetoric and set about answering the tough questions that will really impact customers. Study the issues on a state, regional and national basis. Do this with reliable service, reasonable rates and a sound environment as the goals.

Second, I urge you to allow the states to proceed at their own pace. Federally mandated retail competition at this time is unnecessary and is bad public policy. States have for decades had jurisdiction over the provision of retail electric service. State legislatures and regulators are closer to the public and are devoting the resources to evaluate, and, where appropriate, bring that change that is responsive to state and local needs. Let those states that want and need to experiment do so. Let all of us learn from their successes and their failures. Virginia has and will continue to use market forces to achieve the goal of reliable service and reasonable rates. Let our General Assembly and the Commission do what is best for Virginia.

Electricity is not, of course, simply a state issue; there are important regional and national interests as well. This leads to my third suggestion. There is a way federal legislation could reflect the national interest and help state electric policy evolve. Such federal legislation could address at least two areas. First, the legislation could make clear the states' authority with respect to all retail competition, including unbundled retail transmission. Second, legislation could enable the states to work together on regional issues such as transmission and reliability. The federal role should assure that these regional decisions do not disadvantage the national interest or those of a state or another region.

In short, allow and enable state electric policy to continue to evolve.

Thank you.